



01997.013400

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

SEISHI KATO, ET AL.

Application No.: 09/554,933

Filed: August 21, 2000

For: HUMAN PROTEINS HAVING
TRANSMEMBRANE DOMAINS
AND DNAs ENCODING THESE
PROTEINS

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: Examiner: Jegatheesan Seharaseyon
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: Group Art Unit: 1647
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May 4, 2005

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Attention: Director Jasmine C. Chambers
Technology Center 1600

PETITION UNDER 37 CFR §1.182

Sir:

Applicants recently received a Notice dated April 7, 2005, again suspending *ex parte* prosecution for a period of six months due to a potential interference. This is the fifth such Notice issued by the Patent Office; the earlier Notices were dated May 6, 2002, January 29, 2003, November 18, 2003 and September 14, 2004.

Applicants are cognizant of the importance of 35 U.S.C. 135 but the fact remains that whatever the "other" application is, it is not in condition for allowance. Moreover, patent term extension is only provided to a prevailing party in interference -- there is no patent term extension granted for applications that are only suspended due to

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"potential" interference. That is, there is no patent term extension provided for applications that have not issued due to delay for "potential" interferences, if the "potential" interference never materializes.

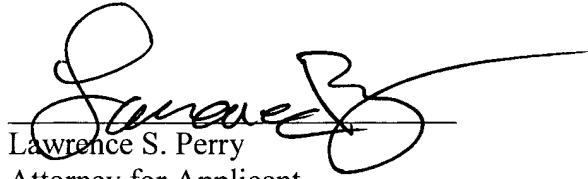
This interference may never materialize for a variety of reasons, e.g., since the "other" application may never be placed in allowable condition or the applicant(s) therein may present claims to a patentably distinct invention. Moreover, even if otherwise allowable interfering subject matter does ultimately materialize, the Patent Office is plainly capable of declaring an interference between an application and an issued patent.

Applicants have, accordingly, lost ca. three years of patent term for no clear reason.

Therefore, in view of the above, Applicants respectfully Petition the Commissioner to promptly issue a Notice of Allowance and Issue fee Due herein. A check in the amount of \$130.00 to cover the filing fee for this Petition under 37 CFR 1.17(h) is enclosed. Any deficiencies may be charged to Deposit Account No. 06-1205.

Applicant's undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,


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